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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/759,830

01/20/2004

Dale Richard Pate

8024

7590 03/26/2008
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EXAMINER

RUHL, DENNIS WILLIAM

ART UNIT	PAPER NUMBER
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3689

MAIL DATE	DELIVERY MODE
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03/26/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

The application 10/759,830 had a proposed response filed on 2/4/08; however, applicant has not paid the extension of time fees that are required under 37 CFR 1.136(a). The non-final office action of 9/10/07 set a shortened statutory period for reply of 3 months. Applicant can extend the period to reply under 37 CFR 1.136(a) 3 more months up to a maximum of 6 months total, but this can only be done by paying the appropriate extension of time fees for the 4th, 5th, or 6th month extension depending on when the response was submitted. In this case, the response filed 2/4/08 required a 2 month extension of time (bringing the response period up to 2/10/08) and no fees were paid. Because the applicant did not pay the extension of time fees, and because the maximum 6 month statutory period for reply expired on 3/10/08, the examiner must view the application as abandoned as of 12/10/07, which is the end of the shortened 3 month time period. The examiner cannot accept the response filed 2/4/08 because the extension of time fees for 2 more months (for a total of 5 months from 9/10/07) have not been paid. The first 3 months are free; the next 3 months require fees to be paid as already explained. The examiner notes that applicant sent a miscellaneous letter on 11/15/07 where a 24 month extension was requested. By law, the examiner cannot extend the period for reply past the 6 month maximum. The examiner has no authority under the law to do what applicant had requested. Also, just submitting a request for an extension of time is not considered a proper response that the examiner would act upon. The extension of time request should also be accompanied by an actual response, which was not done by the applicant.

/Dennis Ruhl/

Primary Examiner, Art Unit 3689